

### REMARKS

Claims 1-3, 7, and 12-19 are pending in the present application. Claims 1, 12-15, and 17-19 have been amended without prejudice leaving Claims 1-3, 7, and 12-19 for consideration upon entry of the present Amendment. The claims have been amended to more clearly state the intended meaning of the amendments made to the claims in an Amendment dated April 26, 2005, and to correct certain minor typographical errors. No new matter has been introduced by any of the amendments made to the Claims, as support for the amendments is found in the Specification, Drawings, and Claims as originally filed. Reconsideration and allowance of the claims is respectfully requested in view of the above amendments and the following remarks.

#### Claim Rejections Under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph

Claims 12-16 stand rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, the Examiner states that in claim 12, line 3, "the main structural member" is not positively cited in the preamble of Claim 1. Applicant, therefore, has amended Claim 12 without prejudice to positively cite the main structural member. Consequently, Applicant respectfully requests reconsideration and withdrawal of this rejection.

#### Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1 and 12-19 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,746,567 to Herbermann et al. ("Herbermann"). Applicant respectfully traverses this rejection.

To anticipate a claim under 35 U.S.C. § 102(b), a reference must disclose each and every element of the claim. *Lewmar Marine v. Varient, Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987). Independent Claims 1, 12, and 19 set forth in part a load sleeve, configured to *directly* hold a load, i.e., the load is positioned on or suspended from the load sleeve itself. Accordingly, to anticipate Claims 1, 12, 19, and those claims

dependent therefrom, Herbermann must, at the very least, teach or suggest a load sleeve adapted to directly hold a load.

Referring to Figure 5, Herbermann teaches two saddle brackets 56 supported by a boom 54. Disposed on each lateral side of brackets 56 is a structure through which a cylindrical member 58 extends. A tool 60, which is attached to each cylindrical member 58 holds a workpiece. Unlike Applicant's claimed invention, wherein a load or workpiece is held directly by a load sleeve (saddle bracket), the workpiece of Herbermann is held directly by tools 60 which are separate and distinct from saddle brackets 56. Therefore, as Herbermann fails, at the very least, to teach or suggest a load sleeve configured to directly hold a load, it cannot anticipate the claims. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim Rejections Under 35 U.S.C. § 103(a)

Claim 2 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Herbermann. Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Claim 2 depends from Claim 1, and therefore includes all of the limitations of Claim 1. Accordingly, to establish a prima facie case of obviousness against Claim 2, Herbermann must, at the very least, teach all of the claimed elements of Claim 1, including a load sleeve that directly holds a load. As previously discussed, Herbermann does not teach this claim element; accordingly, it does not teach or suggest all of the elements of Claim 2. Applicant, therefore, respectfully requests reconsideration and withdrawal of this rejection.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Herbermann in view of U.S. Patent No. 5,251,993 to Sigourney ("Sigourney"). Applicant respectfully traverses this rejection.

As previously stated, establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A 1970). Claim 3 depends from Claim 1, and therefore includes all of the limitations of Claim 1. Accordingly, to establish a prima facie case of obviousness against Claim 3, Herbermann and Sigourney, either alone or in combination, must, at the very least, teach a load sleeve configured to directly hold a load.

As previously discussed above, Herbermann fails to teach or suggest a load sleeve configured to directly hold a load. Herbermann, therefore, does not teach or suggest all of the elements of Claim 1, and hence, of Claim 3. Neither does the Examiner assert that Sigourney cures this deficiency. As neither Herbermann nor Sigourney, either alone or in combination, teach or suggest all of the elements of Claim 3, a prima facie case of obviousness has not been established for Claim 3. Applicant, therefore, respectfully requests reconsideration and withdrawal of this rejection.

Allowable Subject Matter

Applicant respectfully acknowledges that Claim 7 stands allowed.

In light of the foregoing amendments and remarks, reconsideration by the Examiner is respectfully requested. It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should stand allowable.

Respectfully submitted,

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